

FILED
at 11:22 o'clock A.M.
MAR 30 2023
In The United States Bankruptcy Court District of New Mexico United States Bankruptcy Court
Pete V. Domenici U.S. Courthouse Albuquerque, New Mexico

Core Bankruptcy Proceedings

In Re: Michelle Brooke

Bankruptcy Case Number: 22-11006

Debtor

Chapter 7

State of New Mexico, Pro Se
Michelle Brooke, M.Sc.I.T.,MBA
Plaintiff,

Adversary Proceedings Number:

% US Bankruptcy Court
333 Lomas Blvd NW Suite 360
Albuquerque, NM 87102
SSN: XXX-XX-5325
aka Michelle Brooke-Porter

v.

Perdoceo Education Corporation
Formerly CAREER EDUCATION CORPORATION
Parent Company of Colorado Technical University
Defendant,

1750 E. Golf Rd. Suite 350
Schaumburg, IL 60173-5835

And-

231 N Martingale Rd.
Schaumburg, Illinois, 60173

Ph: 847-781-3600

E-mail: onlineregistrar@coloradotech.edu

The Bankruptcy Trustee is:

Yvette J. Gonzales
Trustee
PO Box 1037
Placitas, NM 87043-1037
Ph: (505) 771-0700

Reference

<https://www.law.cornell.edu/>

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<http://www.nmb.uscourts.gov/adversary-complaint>

<https://www.uscourts.gov/>

<https://vetsedsuccess.org/law-enforcement-actions-against-predatory-colleges/>

Adversary Complaint for Permanent Debt Relief, Full Refund of Educational Student Loan Payments and Awards, Misrepresentations “knowledge of its false, misleading, or deception nature or with a reckless disregard for the truth” under the False Claims Act and Compensatory damages; Financial Harm

Introduction

Adversary complaint from Michelle Brooke, seeking remedy in permanent Debt Relief of Educational Student Unsubsidized, Subsidized Loan Payments and Capitalized Interest. Under 11 U.S. Code § 523 - Exceptions to discharge

(a) (8) unless excepting such debt from discharge under this paragraph would impose an undue hardship on me and my dependents.

a) I am 40 years old and have \$187,156.28 in student loans. I have worked various contract positions and received disability. The college I attended; Colorado Technical University, in Schaumburg, IL have been on academic alert within these past 10 years and there was a discharge at one point from the District Attorney. Forty-nine States Attorney Generals settled with their parent company, the Career Education Corporation for Colorado Technical Institute (CTU), in discharging loans with the University. Some students received a full refund, in the result of being a part of the Career Education Corporation. The Career Education Corporation acknowledged they provided false career placement, tuition fees and inflated average incomes of their graduates, data which convinced students that attending Career Education Corporation schools would be a dream come true. However, there was false advertising and fraud. I registered with Lighthouse at 4561 SW 34th St. Orlando, FL 32811, to assist with discharging the debt in September of 2019, however there was a \$2000.00 fee. Reference

<https://www.consumerfinancialserviceslawmonitor.com/2019/01/49-attorneys-general-announce-half-billion-dollar-multistate-settlement-with-for-profit-education-company/>

<https://www.npr.org/2019/01/03/682057881/nearly-180-000-students-wont-have-to-repay-loans-from-for-profit-higher-ed-companies>

<https://www.forgetstudentloandebt.com/student-loan-relief-programs/federal-student-loan-relief/federal-forgiveness-programs/2019-guide-to-the-american-intercontinental-university-lawsuit-loan-forgiveness-program/>

- a) The government-made, insured or guaranteed student loans, and student loans made by nonprofit institutions, "any other educational loan that is a qualified education loan, as defined in §221(d)(1) of the Internal Revenue Code of 1986, incurred by a debtor who is an individual" is now excepted from discharge. 11 U.S.C. §523(a)(8)(B).
- b) 5 831 F.2d 395 (2nd Cir. 1987). Circuit-level decisions adopting the *Brunner* test: 3rd Cir.: *Pennsylvania Higher Education Assistance Agency v. Faish* (*In re Faish*), 72 F.3d 298, 306 (3d Cir. 1995); 4th Cir.: *Educational Credit Management Corp. v. Frushour* (*In re Frushour*), 433 F.3d 393, 399 (4th Cir. 2005); 5th Cir.: *U.S. Department of Education v. Gerhardt*, 348 F.3d 89, 91 (5th Cir. 2003); 6th Cir.: *Oyler v. Educational Credit Management Corp.* (*In re Oyler*), 397 F.3d 382, 385 (6th Cir. 2005); 7th Cir.: *In re Roberson*, 999 F.2d 1132, 1135 (7th Cir. 1993); 9th Cir.: *United Student Aid Funds Inc. v. Pena* (*In re*

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Pena), 155 F.3d 1108, 1112 (9th Cir. 1998); 10th Cir.: *Educational Credit Management Corp. v. Polleys (In re Polleys)*, 356 F.3d 1302, 1309 (10th Cir. 2004); 11th Cir.: *Hemar Insurance Corp. of America v. Cox (In re Cox)*, 338 F.3d 1238, 1241 (11th Cir. 2003). My sincere apologies to the First and Eighth Circuits, but this article will only discuss cases from those circuits that have adopted the *Brunner* test.

- c) 10412 F.3d 1200 (10th Cir. 2005).
- d) 11 The Tenth Circuit reversed the bankruptcy court's decision to give the plaintiffs a partial discharge of the loans.

Reference American Bankruptcy Institute. All rights reserved. ABI is a (501) © (3) non-profit business (52-1295453)

I settled one of my debts with Colorado Technical University in March of 2021. I paid \$625.00 to Synergetic Communication, Inc. in Hayden, ID 83835 account number "10205614-CEC" to get my official transcripts. The invoice states "Career Education Corporation". I can attach the invoice for a full refund. I received another invoice from a different creditor for CTU-Schaumburg, IL, parent company "the Career Education Corporation" for 6,000. I am requesting all funds due to me, be refunded in this adversary complaint from all student loans and financial awards. The Schaumburg, IL location is connected to the Colorado Technical University Colorado Springs location.

- a) The "Colorado Student Loan Servicers Act" created a student loan ombudsman in the Attorney General's Office **Phil Weiser** as a resource for student loan borrowers throughout the state.
Please see <https://coag.gov/press-releases/8-16-22/> for complete discharge of student loans with Colorado Colleges and Universities.
- b) CAREER EDUCATION CORPORATION (owner of COLORADO TECHNICAL UNIVERSITY and AMERICAN INTERCONTINENTAL UNIVERSITY)

State Attorneys General

- 2019 settlement with 48 state Attorneys General plus District of Columbia where CEC agreed to forgive \$493.7 million in debt for nearly 180,000 former students, to pay \$5 million to states, and to revise its enrollment procedures. CEC also agreed to provide students with a single-page disclosure clearly describing their program's expected cost and the typical student loan debt and earnings of a graduate. CEC also must pay an outside monitor to review its compliance with various consumer protection rules.
- 2015 investigations by attorneys general of Maryland and District of Columbia relating to the recruitment of students, graduate placement statistics, graduate certification and licensing results, and student lending activities, among other matters. *Presumably ongoing*.
- 2014 investigations by attorneys general of Arkansas, Arizona, Connecticut, Hawaii, Idaho, Iowa, Kentucky, Missouri, Nebraska, **New Mexico**, North Carolina, Oregon, Pennsylvania, Tennessee,

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and Washington. The inquiries involve subpoenas and civil investigative demands relating to the recruitment of students, graduate placement statistics, graduate certification and licensing results, and student lending activities, among other matters. *Presumably ongoing.*

- 2013 settlement with NY attorney general where CEC agreed to pay \$9.25 million in restitution to students, pay a \$1 million penalty, and change how the school calculates and verifies job placement rates after being found to be inflating graduates' job placement rates.
- 2011 investigation by IL attorney general relating to the recruitment of students, graduate placement statistics, graduate certification and licensing results, and student lending activities, among other matters. *Presumably ongoing.*
- 2010 investigation by FL attorney general into possible unfair and deceptive trade practices. *Presumably ongoing.*

U.S. Securities and Exchange Commission

- 2016 investigation regarding the company's classification of Le Cordon Bleu Culinary Arts campuses as held for sale within discontinued operations, subsequent sales process, and CEC's related public disclosures. *Presumably ongoing.*
- 2013 investigation into the school's previous internal investigation of student placement determination practices and related matters. *Presumably ongoing.*

U.S. Federal Trade Commission

- 2019 CEC was ordered to pay \$30 million to the FTC to settle charges that CEC used sales leads from lead generators that falsified their affiliation with the military, and that used other unlawful tactics to generate leads.
- 2015 investigation regarding deceptive or unfair acts or practices in or affecting commerce in the advertising, marketing or sale of secondary or postsecondary educational products or services, or educational accreditation products or services. *Presumably ongoing.*

U.S. Education Department

- 2011 action placing schools on Heightened Cash Monitoring status.
- 2011 investigation into misrepresentations made about job placement rates.
- 2010 audit to determine whether CTU had policies and procedures to ensure that CTU administered Title IV Program and other federal program funds in accordance with federal law. *Final report and findings presumably still under review.*

U.S. Department of Veterans Affairs

- 2020 decision to suspend new GI Bill enrollments at Career Education Corporation schools due to deceptive advertising, sales, and enrollment practices unless corrective action is taken.
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Private lawsuits

- 2017 agreement to pay the United States \$10 million to settle a False Claims Act lawsuit brought against American InterContinental University. The U.S. Justice Department had declined to intervene in the case, and CEC again admitted no wrongdoing.
- 2015 class action settlement for \$27.5 million for defrauding investors by reporting inflated and false placement rates to its creditors and misleading investors about the health and condition of the company.
- 2010 class action settlement for aggressively marketing through text messaging in violation of federal law.
- 2008 class action settlement for \$4.9 million for defrauding investors. CEC allegedly provided false information to investors regarding the number of qualified students attending its schools.

c) **Everest University; CORINTHIAN COLLEGES (EVEREST, HEALD, WYOTECH) (SOLD OR SHUT DOWN ALL CAMPUSES, DECLARED BANKRUPTCY IN 2015)**

State Attorneys General

- 2016 \$1.1 billion judgment following civil complaint by CA attorney general for violating state law by “misrepresenting job placement rates to students, misrepresenting job placement rates to investors, advertising for programs that it does not offer, unlawfully using military seals in advertising, and inserting unlawful clauses into enrollment agreements that purport to bar any and all claims by students.” The \$1.1 billion judgment against the company included restitution of \$820,000,000 on behalf of students and civil penalties of \$350,025,000.
- 2014 investigation by attorney generals from Arkansas, Arizona, Connecticut, Idaho, Iowa, Kentucky, Missouri, Nebraska, North Carolina, Oregon, Tennessee, Washington, and Pennsylvania regarding the company’s business practices. The investigation concerns organizational information, tuition, loan and scholarship information, lead generation activities, student enrollment qualifications, complaints, accreditation, completion and placement statistics, graduate certification and licensing results, and student lending activities, and other matters. Attorneys general from Colorado, Hawaii, and New Mexico later joined the investigation.
Presumably ongoing.
- 2014 civil complaint filed by MA attorney general alleging school aggressively recruited and misled students by inflating the quality and success of their training programs. *Presumably ongoing.*
- 2014 civil complaint filed by WI attorney general for false, misleading, deceptive misrepresentations made in enrolling students, including availability of externships through the school, as well as job placement rates of graduates. *Presumably ongoing.*
- 2014 investigation by NY attorney general regarding potential issues in financial aid, admissions, students, securities, and other areas. *Presumably ongoing.*

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- 2013 investigation by MN attorney general regarding financial aid, admissions, students, and other areas. *Presumably ongoing.*
- 2011 investigation by IL attorney general regarding financial aid, admissions, students, and other areas. *Presumably ongoing.*
- 2010 investigation by FL attorney general regarding potential misrepresentations in financial aid, recruitment efforts, and other areas of operation. *Presumably ongoing.*

U.S. Consumer Financial Protection Bureau

- 2012 and 2014 civil investigative demands to determine whether the school engaged or is engaging in unlawful acts or practices relating to the advertising, marketing, or origination of private student loans.
- 2014 lawsuit alleging “Corinthian induced students to enroll in its programs through false and misleading representations about its graduates’ career opportunities.” (see here) Resulted in 2015 default judgment requiring Corinthian to pay \$531,224,267 in restitution to borrowers of private loans.

U.S. Department of Justice

- 2014 investigation under the False Claims Act concerning allegations related to student attendance and grade record manipulation, graduate job placement rate inflation and non-Title IV funding source misrepresentations *Presumably ongoing.*
- 2014 subpoena related to matters including job placement representations, graduation rates, transferability of credits for the Company’s students, advertisements and marketing materials, and representations regarding financial aid, military connections, student loans, and defaults by Corinthian’s students, as well as related statements to investors and disclosures in the Company’s public filings with the SEC.
- 2011 subpoena sent by the Education Department, overseen by the Justice Department in 2013, requesting documents related to employment and placement rates at Everest Institute.

U.S. Securities and Exchange Commission

- 2013 investigation regarding recruitment, attendance, completion, placement, student loan defaults, compliance with Department of Education financial requirements, standards and ratios, and other accounting matters. (see here) *Presumably ongoing.*

U.S. Education Department

- 2015 fine after finding Heald College misrepresented its placement rates to current and prospective students and accreditors and failed to comply with federal regulations requiring the complete and accurate disclosure of its placement rates. Fined \$29,665,000.

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- 2014 denied approval for opening new locations because the company admitted to falsifying placement rates and/or grade and attendance records, and because of ongoing investigations regarding improper handling of Title IV funds.
- 2014 placed on increased level of financial oversight.
- 2014 agreement with Department to sell most of its campuses and wind down operations at all others.
- 2014 denied recertification of Everest Cross Lanes for misrepresentations and breach of fiduciary duty at a satellite campus.

My student loans were not discharged after speaking to the University; Myesha Washington PH: (224) 208-2791, Fax (1.866) 371.8856, E: mwashington@coloradotech.edu several times. It was stated this was for students from 2013 and not 2014, last communication was on July 30th, 2020. Colorado Technical University, debt ratio for students are extremely high and with low graduates. I have received four degrees, nine years in college on and off, with high honors Magna cum laude, Cum laude, a life long learner of the Alumni and a part of the Greek Society that was neither here nor there at Colorado Technical University. I have not been able to use my degrees in the real world. I have taken up many short courses along my path, hoping this will assist me too. I am not a jack of all trades.

5) Please see Laws and Regulations, United States Code

42 U.S.C. § 12101; Title 42, Chapter 126, Section 12101

§12101. Findings and purpose

6) Please see Lewis v. Full Sail, LLC, 266 F. Supp. 3d 320 (D.D.C. 2017), I have taken notice of the Civil Action No. 16-2150 (EGS) Lawsuit in the District Court, District of Columbia regarding Full Sail University. I have also experienced the misrepresentation and Marketing schemes with Full Sail. My experiences currently in the real world are with the education I have received;

7) Either an employer was afraid of hiring me due to not being able to pay me enough, even if I settled for a smaller wage or I need more hands-on experience with still small pay. Presently, leads to more independent jobs, not a career. I am adapting to creating opportunities for myself. I had a full hip replacement this past year, which I was totally unable to work and pushed myself to work in lite construction and catering. I ended up needing a longer healing period. Leaving my youth to work and take care of my basic essentials, while disability benefits were in appeal status.

8) I am no longer receiving any benefits from the Social Security Administration by choice. I have moved more than 8 times these past five years for various reasons, with employment being one of my many issues in supporting myself and my youth. My income now is "Snap" and 100.00 a month that I receive from my daughters, until I find employment. I am looking in various states and countries right now to locate a decent pay versus minimum wage with four degrees.

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9) I have spoken with reps arranging an Income-Driven Repayment plan several times. This does not permanently fix my issue, if I have no way of paying my loan balance in general. My tax return these past 3 years have been under \$1000.00 for the entire year. If it was not for the stimulus rebate, during the pandemic. I honestly do not know what I would have done. Outside of my daughters working too. I have not experienced a good quality of life and I am determined to change that by all means necessary. Please see
<https://student-guide.org/colorado-technical-university-class-action-lawsuit-and-loan-forgiveness-in-2021/>

- a. This article goes deep into the deception of the students and the for-profit University's credibility. Misinformed potential students about the rate of job placement and the real cost of getting a degree. Primary strategy was informing students about the cost per credit hour. Class action lawsuit adds that the corporation made the admission representatives mislead students intentionally. Those representatives claimed that students would be able to transfer some credits. However, they could not. Besides, their deceptive practices also include emotionally pressuring students to enroll. Those students falsely believed that their program is very capable of getting them a well-paid employment opportunity. But many of them lacked sufficient accreditation. In general, the university created an incorrect perception of the benefits of the programs, according to the CTU *online lawsuit*. My personal experience, I was coerced into staying if some money was owed from a previous session, which led to another degree. I am happy to have obtained my degrees, that does not discredit my hard work and commitment in college or my decision to stay. However, I am at a disadvantage.

10) The borrower defense to repayment is a set of regulations that specify when federal student loans may be discharged because of harmful acts and omissions by the student's college.

- a. These regulations are authorized by the Higher Education Act of 1965 at 20 U.S.C. 1087e(h), which states:
 - *Notwithstanding any other provision of State or Federal law, the Secretary shall specify in regulations which acts or omissions of an institution of higher education a borrower may assert as a defense to repayment of a loan made under this part, except that in no event may a borrower recover from the Secretary, in any action arising from or relating to a loan made under this part, an amount in excess of the amount such borrower has repaid on such loan.*
- b. The specific regulations that apply to my loans depend on whether they were first disbursed:
 - Prior to July 1, 2017
 - On or after July 1, 2017 and before July 1, 2020
 - On or after July 1, 2020
- c. The current regulations, which were adopted during the Trump Administration, narrowed eligibility for the borrower defense to repayment. Now, to qualify for borrower defense discharge:
 - Misrepresentations must have been made with "*knowledge of its false, misleading, or deception nature or with a reckless disregard for the truth.*"
 - The borrower "Michelle Brooke" has experienced financial harm because of the misrepresentations.

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- The settlement for Sweet v. Cardona states that the Education Department will immediately approve borrower defense claims for approximately 200,000 borrowers, effectively canceling \$6 billion in student loans for students that attended schools that the Department determined engaged in misconduct. Reference
<https://thehill.com/changing-america/respect/accessibility/3534381-education-department-agrees-to-cancel-6-billion-in-loans-part-of-settlement-agreement/>

8 U.S. Code § 157 - Procedures

(F)proceedings to determine, avoid, or recover preferences;
(H)proceedings to determine, avoid, or recover fraudulent conveyances;
(I)determinations as to the dischargeability of particular debts;

11) The Bankruptcy Code, 11 U.S.C. § 522(g), provides that the debtor "Michelle Brooke" may exempt under subsection (b) of this section property that the trustee recovers under section 510(c)(2), 542, 543, 550, 551, or 553 of this title. The Bankruptcy Code allows the Bankruptcy Trustee to recover such payments from the defendant.

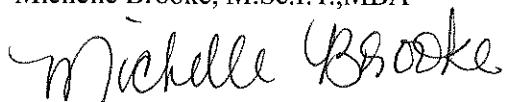
Demand Amount: \$600,000

Under Federal Rule of Civil Procedure II

Presented By:

Michelle Brooke, M.Sc.I.T.,MBA

March 22, 2023



Disclaimer: ****Requesting redaction of personal identifiers*****Do Not Sell or give My Personal Information to any 3rd parties, not listed in this Adversary Complaint.*

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